THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION Nos.12836, 12858, 12859, 12870, 12926 and 13077 of 2005
Dated: 24.08.2006

WRIT PETITION No.12836 of 2005:
Between:

M/s E.C.E. Industries Ltd.,
(formerly known as A.P.Electrical Equipment Corporation)
Visakhapatnam,
rep., by its Dy. Chief Executive/Authorised Signatory,
Mr.S.C.Agarwal S/o late H.C.Agarwal.

… **PETITIONER**

And:

A.P.Transco (formerly known as A.P.S.Electricity Board)
Khairatabad, Vidyuth Soudha, Hyderabad and others.

…**RESPONDENTS**

WRIT PETITION No.12858 of 2005:

Between:

M/s E.C.E. Industries Ltd.,
(formerly known as A.P.Electrical Equipment Corporation)
Visakhapatnam,
rep., by its Dy. Chief Executive/Authorised Signatory,
Mr.S.C.Agarwal S/o late H.C.Agarwal.

… **PETITIONER**

And:

A.P.Transco (formerly known as A.P.S.Electricity Board)
Khairatabad, Vidyuth Soudha, Hyderabad and others.

…**RESPONDENTS**

WRIT PETITION No.12859 of 2005:

Between:

M/s E.C.E. Industries Ltd.,
(formerly known as A.P.Electrical Equipment Corporation)
Visakhapatnam,
rep., by its Dy. Chief Executive/Authorised Signatory,
Mr.S.C.Agarwal S/o late H.C.Agarwal.

… **PETITIONER**

And:

A.P.Transco (formerly known as A.P.S.Electricity Board)
Khairatabad, Vidyuth Soudha, Hyderabad and others.

…**RESPONDENTS**

WRIT PETITION No.12870 of 2005:

Between:

M/s E.C.E. Industries Ltd.,
(formerly known as A.P.Electrical Equipment Corporation)
Visakhapatnam,
rep., by its Dy. Chief Executive/Authorised Signatory,
Mr.S.C.Agarwal S/o late H.C.Agarwal.

… **PETITIONER**

And:

A.P.Transco (formerly known as A.P.S.Electricity Board)
Khairatabad, Vidyuth Soudha, Hyderabad and others.

…**RESPONDENTS**

WRIT PETITION No.12926 of 2005:

Between:

M/s E.C.E. Industries Ltd.,
(formerly known as A.P.Electrical Equipment Corporation)
Visakhapatnam,
rep., by its Dy. Chief Executive/Authorised Signatory,
Mr.S.C.Agarwal S/o late H.C.Agarwal.

… **PETITIONER**

And:

A.P.Transco (formerly known as A.P.S.Electricity Board)
Khairatabad, Vidyuth Soudha, Hyderabad and others.

…**RESPONDENTS**

WRIT PETITION No.13077 of 2005:

Between:

M/s E.C.E. Industries Ltd.,
(formerly known as A.P.Electrical Equipment Corporation)
Visakhapatnam,
rep., by its Dy. Chief Executive/Authorised Signatory,
Mr.S.C.Agarwal S/o late H.C.Agarwal.

… **PETITIONER**

And:

A.P.Transco (formerly known as A.P.S.Electricity Board)
Khairatabad, Vidyuth Soudha, Hyderabad and others.

...**RESPONDENTS**

COMMON ORDER:

Heard Sri S. Sri Venkatesh, learned counsel for the petitioner, and

Sri Sriramulu Reddy, learned Standing Counsel for the respondent.

All these writ petitions involve common questions of law and fact and are therefore considered and disposed of by this common order.

In W.P.Nos.12836 and 12870 of 2005 the petitioner assails the letters addressed by the third respondent on behalf of the first respondent Corporation intimating the petitioner that Rs.2,35,433.90ps and Rs.2,94,241/-, respectively, have been recovered from the bills payable to the petitioner by the respondent-Corporation as the petitioner has failed to carry out repairs for the transformers supplied by it, the transformers failed within the guarantee period, and neither the service engineer nor any authorized mechanic of the petitioner came forward to carry out repairs, and repairs were therefore, carried out through private contractors employed by the first respondent-Corporation for putting the transformers in use. In the other writ petitions, the petitioner claims interest on delayed payment of bills by the first respondent-Corporation.

Pursuant to contracts between the petitioner and the first respondent-Corporation and different purchase orders placed on the petitioner by the respondent-Corporation, the petitioner supplied several electrical equipments for the use of the first respondent-Corporation. The several contracts between the parties are all non-

statutory in character. Disputes arose between the petitioner and the first respondent-Corporation in respect of the performance of the reciprocal obligations in

terms of the contract. The petitioner claims and asserts that the first respondent and its authorities have reneged in timely payment of bills, contrary to the terms of contract and that deductions were made contrary to the substantive and procedural rigour of the terms of the contract between the parties. On these factual assertions the petitioner claims reliefs in these writ petitions.

The disputes between the parties, which are the subject matter of these several writ petitions, involve interpretation of the clauses of a non-statutory contract between the parties. The dispute is at the post threshold stage of such a non-statutory contract. Since it is stated that there is no arbitration clause in the contract, the petitioner has nevertheless a remedy before the Civil Court of competent jurisdiction for adjudication of such disputed questions of fact involving interpretation of the clauses of non-statutory contracts. Writ petition is not thus a legislative forum of choice.

In the circumstances, in view of the law declared in ***M/s Radhakrishna Agarwal v. State of Bihar***[1] and in ***Assistant Excise Commissioner v. Issac Peter***[2], this Court is not inclined to exercise its discretion to entertain these contractual disputes, particularly in the context of availability of an alternative and efficacious remedy to the petitioner.

In the considered view of this Court, no case is made out for exercise of discretion for grant of mandamus in these writ petitions.

The writ petitions are accordingly dismissed. The petitioner is at liberty to pursue appropriate alternative remedies. There shall be no order as to costs.

24.08.2006

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[1] 1977 sc 1496

[2] (1994) 4 SCC 104